THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 32625 of 1997

Dated: 23.02.2007

Between:

Rayudu Satyanarayana, S/o Venkat Reddy, aged about 55 years, Hindu, Occ: Agriculture, R/o Lanka of Thanelanka of Mummidivaram Mandal, East Godavari District and others.

..... PETITIONERS

AND

State of A.P., rep. by its Secretary, Revenue Department, Secretariat Buildings, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 32625 of 1997

Order:

This writ petition is filed for the following relief:

> "To issue a Writ of Certiorari calling for the records pertaining to G.O. Ms. No.881, Revenue (ASN-I) Department, dated 20.10.1997, issued by the 1st respondent herein and quash the same declaring it as illegal, arbitrary, unconstitutional and *ultra vires* by holding that the petitioners are entitled to be in lawful possession and enjoyment of the property bearing Nos.490 and 491 of Thanelanka village, and No.454 in R.S.No.1/1 in Lanka of Komanapalli village, Mummidivaram Mandal, East Godavari District."

2. It is unnecessary to go into various aspects raised by the petitioners in the writ petition, and it is suffice to say that the order impugned in this writ petition, dated 20.10.1997, was passed without affording reasonable opportunity to the petitioners. Admittedly, the notice, vide reference No.E/1428/89, directing the petitioners to appear before the 1st respondent on 13.09.1997, was issued on 11.09.1997. According to the petitioners, the said urgent notice was served on them only on 12.09.1997 at 9.00 P.M., and immediately they requested the 1st respondent to afford them sufficient time as it was not possible for them to appear on 13.09.1997. However, the impugned order was passed on 20.10.1997 as if the petitioners appeared before the 1st respondent.

3. Heard learned counsel for the parties.

4. Admittedly, the petitioners are residing at Thanelanka of

Mummidivaram Mandal in East Godavari District, and when the notice, dated 11.09.1997, directing the petitioners to appear before the 1st respondent on 13.09.1997, was served on them on 12.09.1997 at 9.00 P.M., it is highly impossible for them to attend at Hyderabad on 13.09.1997. Hence, this Court is unable to accept the contention of the respondents that the petitioners were present and the 1st respondent heard them before passing the impugned order. In that view of the matter, this Court is of the view that the impugned order is liable to be set aside.

5. Accordingly, the writ petition is allowed and the impugned order passed in G.O. Ms. No. 881, Revenue (ASN-I) Department, dated 20.10.1997, is hereby set aside. The 1st respondent is directed to pass appropriate orders in the matter in accordance with law, after affording reasonable opportunity to the petitioners as well as the 5th respondent. Having regard to the fact that the petitioners are continued to be in possession of the property in question during the pendency of the writ petition, their possession shall not be disturbed during the pendency of the said hearing. No costs.

_____

GOPALA KRISHNA TAMADA, J.

Date: 23.02.2007
Nsr